

Excerpt from Senate Report 92-842
Fair Labor Standards Amendments of 1972

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tion and to apply them to an anti-wage discrimination standard was based on the fact that it would be simpler to administer if it was co-extensive with minimum wage coverage.

Equal pay is now a well-recognized and accepted standard and the time has come to end exclusions which were at best "transitional" in nature.

The need for an equal-pay standard is at least as great or greater in the areas to which the standard is now inapplicable as in the areas to which it applies. The statistical evidence is persuasive that the more education and experience a woman worker has, the greater the earnings gap between her and a man with the same amount of education and experience. Furthermore, there is a considerable body of information which indicates that prohibitions against all forms of discrimination on account of sex under Title VII of the Civil Rights Act of 1964 has had little impact on insuring equal pay for equal work in executive, administrative, and professional categories.

The equal pay provision of the FLSA has proven to be an effective means of eliminating wage discrimination based solely on sex in activities covered by the standard. It is expected that extending the standard to other activities will be equally effective in eliminating the remaining areas of wage discrimination.

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT
EMPLOYMENT

S. 1861 amends the Age Discrimination in Employment Act of 1967 (PL 90-202) to include within the scope of coverage, Federal, State and local government employees. This amendment is similar to a proposal first introduced by Senator Bentsen as S. 3318, and then as an amendment to S. 1861. The amendment is a logical extension of the Committee's decision to extend FLSA coverage to Federal, State, and local government employees.

The ADEA prohibits discrimination in employment on the basis of age in matters of hiring, job retention, compensation, and other terms, conditions or privileges of employment. Protection under the Act is limited to individuals who are between the ages of 40 and 65.

The Committee recognizes that the omission of government workers from the Age Discrimination in Employment Act did not represent a conscious decision by the Congress to limit the ADEA to employment in the private sector. It reflects the fact, that in 1967, when ADEA was enacted, most government employees were outside the scope of the FLSA and the Wage Hour and Public Contracts Divisions of the Department of Labor, which enforces the Fair Labor Standards Act, were assigned responsibility for enforcing the Age Discrimination in Employment Act.

As the President said in his message of March 23, 1972, supporting such an extension of coverage under the ADEA, "Discrimination based on age—what some people call 'age-ism'—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person's unique status as an individual and treats him or her as a member of some arbitrarily-defined

group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working."

The Committee was impressed by a press release issued by Secretary of Labor Hodgson on February 4, 1972 which was headed: "Voluntary Compliance with Age Discrimination Laws Opens Up 1 Million Jobs, Secretary of Labor Tells Congress". The release states that informal talks with some 30,000 employers dispelled "preconceived notions or myths" about the older worker.

The Committee expects that expanded coverage under the Age Discrimination in Employment law will remove discriminatory barriers against employment of older workers in government jobs at the Federal and local government levels as it has and continues to do in private employment.

RECOVERY OF BACK WAGES

Section 8 of the Committee bill amends section 16(c) to authorize the Secretary of Labor not only to bring suit to recover unpaid minimum wages or overtime compensation, a right which he currently has, but also to sue for an equal amount of liquidated damages without requiring a written request from an employee. The addition of liquidated damages is a necessary penalty to assure compliance with the Fair Labor Standards Act. Currently, all that is required of the employer is that he pay the wages that should have been paid in the first place, without any penalty for violating the Act. This is not a deterrent to future violations.

This Section would also allow the Secretary of Labor to bring suit even though the suit might involve issues of law that have not been finally settled by the courts. At the present time, many of the protections that are written into this Act are not being extended to workers because of the current restrictions on the Secretary in bringing suits in areas that have not been finally settled by the courts. The Act places the primary responsibility for the enforcement of this Act on the Secretary of Labor; he should have the right to bring suits directly in order to resolve issues of law.

The Committee is concerned that the Employment Standards Administration of the Department of Labor which now has responsibility for administering the Fair Labor Standards Act appears to be considering reordering its priorities in such a way as to downgrade enforcement of this Act. The Committee wishes to reemphasize that it expects the Department to maintain a vigorous enforcement program under this Act; that coverage should be interpreted broadly; and that every effort should be made to insure that those employees who have been the victims of violations of this Act are made whole.

It is to be noted that information furnished to the Committee by the Department of Labor shows that violations of the FLSA are still widespread, and that an intensified program of inspections is fully warranted by the results achieved by the present enforcement program. Low-wage employees, who desperately need a decent wage to provide themselves and their families with the rudiments of life, are

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OLDER AMERICANS

*The President's Message to the Congress. March 23, 1972**To the Congress of the United States:*

When I addressed the White House Conference on Aging last December, I pledged that I would do all I could to make 1972 a year of action on behalf of older Americans. This message to the Congress represents an important step in fulfilling that promise.

Many of the actions which are outlined in this message have grown out of concerns expressed at the White House Conference and at related meetings across the country. The message also discusses a number of steps that have already been taken or that were announced at an earlier date. All of these actions are part of our comprehensive strategy for helping older Americans.

The momentum which has been generated by all these steps—old and new—will move us toward the great national objectives which the White House Conference set forth. I pledge that this momentum will be sustained as we follow through on these initiatives and as we keep other recommendations of the White House Conference at the top of our agenda, under continuing review.

This message, then, does not represent the last word I will have to say on this important subject. It does, however, identify those administrative steps which we are taking immediately to help older Americans, along with a number of legislative initiatives which should be of highest priority on this year's Congressional agenda.

We often hear these days about the "impatience of youth." But if we stop to think about the matter, it is the elderly who have the best reason to be impatient. As so many older Americans have candidly told me, "We simply do not have time to wait while the Government procrastinates. For us, the future is now." I believe this same sense of urgency should characterize the Government's response to the concerns of the elderly. I hope and trust that the Congress will join me in moving forward in that spirit.

A COMPREHENSIVE STRATEGY FOR MEETING COMPLEX PROBLEMS

The role of older people in American life has changed dramatically in recent decades. For one thing, the number of Americans 65 and over is more than six times as great today as it was in 1900—compared to less than a 3-fold increase in the population under 65. In 1900, one out of every 25 Americans was 65 or over; today one in ten has reached his 65th birthday.

While the number of older Americans has been growing so rapidly, their traditional pattern of living has been severely disrupted. In an earlier era, the typical American family was multigenerational—grandparents and even great-grandparents lived in the same household with their children and grandchildren, or at least lived nearby. In recent years, however, the ties of family and of place have been loosened—with the result that more and more of our older citizens must live apart or alone. The rapid increase in mandatory retirement provisions has compounded this trend toward isolation. Under such conditions, other problems of older persons such as ill health and low income have become even more burdensome.

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—provide more and better housing for older Americans by issuing new guidelines for two HUD programs to make them more readily applicable to the elderly, by extending the mortgage maturity for the FHA-insured nursing home program, by drawing upon research of the Law Enforcement Assistance Administration to reduce crime, by encouraging the provisions of more space for senior centers within housing projects for the elderly, and by developing training programs in the management of housing for older persons.

✓ 4. *To expand opportunities for older persons to continue their involvement in the life of our country,*

The Congress should:

—appropriate the funds I have requested for such action programs as Retired Senior Volunteers and Foster Grandparents;

—authorize the ACTION agency to expand person-to-person volunteer service programs, helping more older Americans to work both with children and with older persons who need their help; and

—broaden the Age Discrimination in Employment Act of 1967 to include State and local governments.

The Administration will:

—work with 130 national voluntary groups across the country in a special program to stimulate volunteer action; and

—develop a national program to expand employment opportunities for persons over 65, through programs such as Senior Aides and Green Thumb, by urging State and local governments to make job opportunities available under the Emergency Employment Act of 1971, by working through the public employment offices to open part-time job opportunities in both the public and private sector, and by reaffirming Federal policy against age discrimination in appointment to Federal jobs.

5. *To improve Federal organization for future efforts,*

The Administration will:

—strengthen the Secretary of Health, Education, and Welfare's Advisory Committee on Older Americans—providing it with permanent staff capability to support its increased responsibilities;

—arrange for the Commissioner of Aging, in his capacity as Chairman of the Advisory Committee on Aging, to report directly to the Secretary of Health, Education, and Welfare;

—create a Technical Advisory Committee on Aging Research in the Office of the Secretary of Health, Education, and Welfare to develop a comprehensive plan for economic, social, psychological, health and education research on aging.

PROTECTING THE INCOME POSITION OF OLDER AMERICANS

Perhaps the most striking change in the lives of most Americans when they turn 65 is the sudden loss of earned income which comes with retirement. The most important thing we can do to enhance the independence and self-reliance of older Americans is to help them

protect their income position. I have long been convinced that the best way to help people in need is not by having Government provide

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shopping and trips to obtain health care have become too difficult. And yet, with only minimal assistance from volunteers, these problems could easily be met.

I have directed the ACTION agency to work in every possible way to help provide such assistance. Already, the RSVP program is moving forward in this area. I am confident that other ACTION program volunteers can also make a major impact in this field. It is my hope, too, that communities will consider the elderly residents of federally assisted housing projects as a source of volunteer manpower for serving other older persons.

As we move ahead with this entire program, we should take encouragement from successes of the past. One which is particularly noteworthy is the program in Mount Vernon and Edmunds, Washington, where local citizens have designed a unique bridge across the generation gap called STEP—Service To Elderly Persons. Under this program, volunteers from the local high schools have undertaken, on a regular basis, to assist elderly persons in performing small tasks, while at the same time providing them with companionship and renewed hope. Everyone gains from a program of this sort. If leaders at every level are alert to such possibilities, our progress can be enormous.

Often in quiet ways, the people of the United States have been responding to the challenges of our society with compassion and resourcefulness. Now it is for those of us who have the responsibility for national leadership to provide the Federal assistance which can help such voluntary efforts go even further and accomplish even more.

✓ Employment Opportunities for Older Citizens

Discrimination based on age—what some people call “age-ism”—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person’s unique status as an individual and treats him or her as a member of some arbitrarily-defined group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working.

We are responding to this problem in a number of ways. The Department of Labor, for example, has filed over 80 suits under the Age Discrimination in Employment Act of 1967—30 of which have been successfully concluded. I will soon propose to the Congress that this act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments. I will also send a directive to the heads of all Federal departments and agencies reaffirming and emphasizing our policy that age shall be no bar to a Federal job which an individual is otherwise qualified to perform.

The Age Discrimination in Employment Act relates to persons between the ages of 45 and 65. I recognize that persons falling within this age group are confronted with special problems in the employment area and that we should do everything we can to resolve these problems. It is also important, however, that we help open employment opportunities for persons over 65. To this end, I have requested the Secretary of Labor to urge the States and local communities to include older persons in the opportunities provided by the Emergency Employment Act of 1971, and to work with our public employment offices so that they will be in a

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position to help open job opportunities for the over 65 group, including opportunities for part-time employment in both the public and private sectors.

I also asked last fall that funds be doubled for special Operation Mainstream projects for low-income older workers—such as Green Thumb and Senior Aides. This measure can mean that as many as 10,000 older persons will be employed in activities that provide useful community service.

ORGANIZING FOR FUTURE ACTION

One of the important concerns of the White House Conference on Aging was the way in which the Government is organized to deal with the problems of older Americans. It was because I share this concern that I established my original task force on aging, appointed the first Special Assistant to the President on Aging and the first Special Consultant to the President on Aging, set up a new Cabinet-level Committee on Aging and called the White House Conference.

In a similar manner, the Secretary of Health, Education, and Welfare has taken steps to ensure that the voice of older Americans speaks loud and clear within that Department. He has informed me that he will strengthen the Department's Advisory Committee on Older Americans and provide it with staff capability to support its increased responsibilities. The Commissioner of Aging, in his capacity as Chairman of the Advisory Committee, will report directly to the Secretary.

Another important organizational concern involves Government research activities which concern the process and problems of aging. It is important that the same scientific resources which have helped more people live longer lives now be applied to the challenge of making those lives full and rewarding for more Americans. Only through a wise investment in research now, can we be sure that our medical triumphs of the past will not lead to social tragedies in the future.

What we need is a comprehensive, coordinated research program, one which includes disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics. To coordinate the development of such a program, a new Technical Advisory Committee for Aging Research will be created in the office of the Secretary of Health, Education, and Welfare.

A GENERATION NO LONGER FORGOTTEN

We all grow old; the younger generation today will be the older generation tomorrow. As we address the needs of older Americans, therefore, we are truly acting in the best interest of all Americans. The actions and proposals which have been outlined in this message are designed to address those needs and meet those interests.

When I spoke about the problems of the elderly back in 1968, I described our older citizens as "an entire generation of forgotten Americans." But since that time, as this message clearly demonstrates, that situation has sharply changed. Today, it can truly be said that at all levels of Government and in all parts of the country, "the aging have come of age." Much work still remains, to be sure, but we can conclude with assurance that the aging are forgotten no longer.

Just before the First World War, one of the brilliant young writers

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TRANSMITTAL SLIP		DATE 6 July 1972
TO: Fisher; [REDACTED]		25X1A
ROOM NO.	BUILDING	
REMARKS: <p>Attached is an excerpt from the report on the Fair Labor Standards Amendments of 1972 (S. 1861) explaining the rationale of the nondiscrimination on account of age amendment.</p> <p>Also attached is an excerpt from the Weekly Compilation of Presidential Documents dealing with the President's 23 March message to the Congress to which the Committee report is referring.</p> <p>25X1A</p>		
FROM [REDACTED]		OLC
ROOM NO.	BUILDING	EXTENSION 6136

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

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